

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>IN RE: DOLLAR GENERAL CORP.</b>	)	<b>MDL No. 2709</b>
<b>MOTOR OIL MARKETING AND</b>	)	
<b>SALES PRACTICES LITIGATION</b>	)	<b>Master Case No. 16-02709-MD-W-GAF</b>
	)	
<b>THIS PLEADING RELATES TO:</b>	)	
	)	
<b>ALL ACTIONS</b>	)	

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**ORDER REGARDING LIMITATIONS ON  
DEPOSITIONS AND WRITTEN DISCOVERY**

Pursuant to the Court's July 15, 2016, Discovery Plan and Scheduling Order, Doc. 23, it is hereby stipulated and agreed by the respective undersigned counsel for Plaintiffs and Defendants that the following limitations shall apply to depositions and written discovery in this Litigation.

**1. SCOPE OF THIS ORDER.**

1.1 This Order does not alter any schedule for fact and expert discovery as originally set forth in this Court's July 15, 2016, Discovery Plan and Scheduling Order, Doc. 23, and as may be amended by other Orders, except as stated below in Section 4.7.

1.2 This Order does not alter the procedure for requesting an extension of time as set forth in this Court's July 15, 2016, Discovery Plan and Scheduling Order, Doc. 23, and as may be amended by other Orders.

1.3 This Order does not alter any Protective Order, Preservation Order, or Document Production / ESI Order that this Court may separately enter.

1.4 This Order supersedes any prior Order of this Court to the extent any contrary directive is supplied herein.

1.5 This Order shall be in effect until the conclusion of all discovery in this Litigation. The parties may stipulate to a modification of the limits on the amount of discovery set forth in this Order. If there is disagreement as to modifying this Order, it may be modified in the interests of justice, expedience, or judicial economy on the Court's own motion or on a motion by a party.

1.6 Any motion regarding a dispute arising under or relating to this Order, including modification of this Order, shall comply with Western District of Missouri Local Rule 37.1. Any such motion shall also comply with the terms set forth in the "Discovery Motions" paragraph of this Court's July 15, 2016, Discovery Plan and Scheduling Order, Doc. 23 at ¶ 14. The burden in any such dispute shall remain with the party seeking to modify, alter, or deviate from the terms of this Order.

1.7 For purposes of this Order, any reference to a party who is a "defendant" or a "co-defendant" shall be applicable to any party who (alternatively or additionally) occupies the position of a "third-party plaintiff" or a "third-party defendant." However, the terms of this Order shall not be construed to permit any more rights or remedies than if such a party was solely in the position of a "defendant" or a "co-defendant."

## **2. SCOPE OF DISCOVERY.**

2.1 All discovery (the "common discovery") shall be conducted under the MDL No. 2709, Master Case No. 16-02709-MD-W-GAF, case caption. Such common discovery shall apply to the Master Case and all related individual actions pending before the Western District of Missouri as part of these MDL proceedings (the "Litigation").

2.2 Any party to this Litigation who is currently named, or who is later added, or who is a party to another individual action that may be filed in, transferred to, or removed to the

Western District of Missouri as part of this Litigation, must rely upon the common discovery that occurs in this Litigation. The common discovery will apply to every such party who, at the time of such common discovery, either:

- (1) was involved with, present during, or represented during the common discovery;
- (2) was a then-named party to an action pending before the Western District of Missouri that is part of this Litigation, and had reasonable notice of the common discovery; or
- (3) was not a then-named party to an action pending before the Western District of Missouri that is part of this Litigation, but subsequently, within 30 days after becoming a named party to an action pending before the Western District of Missouri that is part of this Litigation, fails to show just cause why such common discovery should not apply to such party.

2.3 The discovery that occurs in this MDL may be used in any individual action that is part of this Litigation and that is subsequently remanded to a transferor court.

2.4 To the extent any plaintiff who is not a part of this MDL has claims against any defendant and wishes to use the discovery taken in this Litigation in an action in another court, such plaintiff may be assessed an appropriate charge as determined by the Court.

2.5 The Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Western District of Missouri Local Rules shall apply to the discovery in this Litigation, except as otherwise modified herein.

**3. DEPOSITION LIMITATIONS.**

Depositions shall be governed by Federal Rules of Civil Procedure 26, 27, 28, 30, 31, and 32, as well as Western District of Missouri Local Rules 26.4 and 30.1, except to the extent set forth as follows:

3.1 When appropriate, the parties will work together to group witnesses geographically for depositions.

3.2 When possible, the parties will work together to produce witnesses for deposition once for all purposes.

3.3 Once a witness has been deposed for all purposes, supplemental depositions of a witness are not permitted absent a showing of good cause or upon agreement of the parties. A showing of good cause may warrant some additional deposition discovery of witnesses who have already been deposed.

3.4 Nothing herein shall bar the subsequent deposition of a fact witness who is subsequently identified as an expert witness or as a witness otherwise offering opinion testimony not disclosed at the time of the prior deposition.

3.5 Before setting a date, time, and location of the deposition of any party or non-party, the party noticing the deposition shall meet and confer with counsel for the deponent (or, if unrepresented, with the deponent itself) as well as with opposing counsel in an attempt to coordinate such a date, time, and location that reasonably accommodates the schedules and required travel arrangements of those involved. A party may not unilaterally set a date, time, and location for a deposition it notices without first undertaking this meet and confer.

3.6 Plaintiffs collectively and each set of naturally-grouped defendants (e.g., defendants who are related legal entities) shall have only one representative each ask questions, if any, of the deponent, absent agreement of the parties.

3.7 A deposition of an individual shall be limited to seven hours absent this Court's Order for good cause shown, or upon agreement of the parties.

3.8 A deposition of a Rule 30(b)(6) witness shall be limited to the time agreed upon by the parties after a meet and confer. The burden to establish the propriety of the length of such a deposition beyond seven hours shall be on the party seeking to depose the Rule 30(b)(6) witness.

3.9 Limits on plaintiffs' taking of depositions:

- (1) Plaintiffs shall be entitled to depose each defendant. For purposes of this clause, corporate defendants may designate multiple Rule 30(b)(6) witnesses for different areas of inquiry.
- (2) Plaintiffs shall be entitled to depose each witness designated by a party as a testifying expert.
- (3) Plaintiffs shall be entitled to depose an additional 20 witnesses.

3.10 Limits on defendants' taking of depositions:

- (1) Each set of naturally-grouped defendants shall be entitled to depose each named plaintiff and those witnesses with knowledge regarding a specific plaintiff's claims.
- (2) Each set of naturally-grouped defendants shall be entitled to depose each witness designated by a party as a testifying expert.

- (3) Each set of naturally-grouped defendants shall be entitled to depose each named co-defendant. For purposes of this clause, corporate defendants may designate multiple Rule 30(b)(6) witnesses for different areas of inquiry.
- (4) Each set of naturally-grouped defendants shall be entitled to depose an additional 20 witnesses.

3.11 A party seeking to depose a 30(b)(6) witness for any party will use its best efforts to submit a comprehensive list of proposed corporate representative witness topics. However, upon agreement of the parties or a showing of good cause, a party may submit additional 30(b)(6) notices for additional topics. The party producing the 30(b)(6) witness can designate one witness to cover multiple deposition topics if appropriate, which will create efficiencies for all concerned.

#### **4. WRITTEN DISCOVERY LIMITATIONS.**

Written discovery shall be governed by Federal Rules of Civil Procedure 26, 33, 34, and 36, as well as Western District of Missouri Local Rules 26.2 and 26.4, except to the extent set forth as follows:

##### 4.1 Procedure for plaintiffs' written discovery:

- (1) Each written discovery—be it a set of interrogatories, requests for admissions, or requests for production—shall be propounded on behalf of all named plaintiffs collectively. The parties shall meet and confer if plaintiffs believe that any individual plaintiff or group of plaintiffs is entitled to its own separate discovery.

- (2) Plaintiffs shall propound written discovery directed at naturally-grouped defendants (e.g., defendants who are related legal entities) in a single written discovery document. The parties shall meet and confer if they disagree about the appropriate grouping of defendants.

4.2 Limits on plaintiffs' taking of written discovery:

- (1) Plaintiffs, collectively, shall be entitled to propound 40 interrogatories, including subparts to each set of naturally-grouped defendants.
- (2) Plaintiffs, collectively, shall be entitled to propound 50 requests for admissions to each set of naturally-grouped defendants. This limitation does not include requests for admission concerning admissibility or authenticity of documents or things.
- (3) Plaintiffs, collectively, shall be entitled to propound as many requests for production as they deem appropriate to any number of parties, provided that such discovery is not unreasonably cumulative or duplicative, is not propounded for any improper purpose, and otherwise complies with and falls within the permissible limits of the Federal Rules of Civil Procedure.

4.3 Procedure for defendants' written discovery:

- (1) Each written discovery—be it a set of interrogatories, requests for admissions, or requests for production—shall be propounded on behalf of naturally-grouped defendants (e.g., defendants who are related legal entities) collectively. The parties shall meet and confer if defendants believe that any individual defendant is entitled to its own discovery

separate from related legal entities, or if the parties disagree about the appropriate grouping of defendants.

4.4 Limits on defendants' taking of discovery:

- (1) Each set of naturally-grouped defendants shall be entitled to propound 40 interrogatories, including subparts, to each plaintiff, and to propound 40 interrogatories, including subparts, to each set of naturally-grouped co-defendants.
- (2) Each set of naturally-grouped defendants shall be entitled to propound 65 requests for admissions to each plaintiff, and to propound 65 requests for admissions to each set of naturally-grouped co-defendants. This limitation does not include requests for admission concerning admissibility or authenticity of documents or things.
- (3) Each set of naturally-grouped defendants shall be entitled to propound as many requests for production as they deem appropriate to any number of parties, provided that such discovery is not unreasonably cumulative or duplicative, is not propounded for any improper purpose, and otherwise complies with and falls within the permissible limits of the Federal Rules of Civil Procedure.

4.5 Requests for admission regarding authentication and admissibility of documents may be served only after the close of discovery.

4.6 The parties shall be reasonable in granting extensions to respond to discovery, especially when no discovery deadlines are imminent.



4.7 The deadlines for all discovery propounded prior to entry of a protective order, preservation order, and ESI order are suspended until fifteen (15) days after entry of the last one of these orders by the Court. Notwithstanding this, the parties can agree to exchange discovery responses and/or documents, if they so choose.

s/ Gary A. Fenner  
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GARY A. FENNER, JUDGE  
UNITED STATES DISTRICT COURT

DATED: August 18, 2016